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INDIGENOUS ISSUES

Joint written statement* submitted by Centre Europe - Tiers Monde (CETIM), a non-governmental organization in general consultative status, and the American Association of Jurists, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 January 2002]

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*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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ENG

The situation of displaced persons due to the war in Chiapas: the actual case

Since 1995, military and paramilitary presence and actions in Chiapas' Indigenous communities has led entire communities to leave their homes and to live in make-shift camps where survival is increasingly difficult. The massive exodus from the municipality of Chenalhó in Los Altos de Chiapas is one of the more serious examples. After the massacre of 45 people by the paramilitary on December 22, 1997, many families living in this municipality left their homes and their lands, afraid of another massacre. Almost 8.000 displaced persons settled in 8 different camps in the town of Polhó where they have remained ever since, fearing further attacks by the paramilitary who still maintain a presence and act with impunity.

The complete loss of the means of production for basic foodstuffs is one of the most suffocating problems affecting the displaced persons since, in the current living conditions, they are unable to provide the basic necessities. Basic foodstuffs (corn and beans) hardly exist and the little national and international aid provided can hardly feed the refugee population. The fear of general starvation is increasingly real and immediate.

The 8.000 refugees in Polhó come from the following communities: Los Chorros, Yabteclum, Puebla, La Esperanza, Acteal, Nueva Aurora Chica, Tulantic, Santa Marta, Chimix, Pechiquil, Yaxhemel, Tachquil and Tzajalkum. Polhó's population is organized in 8 camps, each camp is composed of approximately a thousand people grouped according to place of origin.

The displaced persons live in extreme poverty. They survive in wooden houses with corrugated metal roofs and a poor sanitary system. Malnutrition, gastrointestinal infections, respiratory and urinary infections, diarrhea, and parasitism are a short-term menace.

Agriculture was the main activity in the refugee camps of Polhó: basic foodstuff cultivation (corn, beans, pumpkins, etc.) as well as coffee cultivation for trade. Abandoning their lands, the refugees have lost their possession and the possibility to produce their own food.

Furthermore, it is important to mention some factors that, in the current political context, make it increasingly difficult for the refugees living in Polhó to return to their homes. The return of the Las Abejas group to their lands during the second half of 2001 was presented as a great achievement by the federal and state administrations. The official version is that the situation of displaced persons has improved radically. For the Las Abejas group, victims of the Acteal massacre, they returned home because they could not endure the conditions as displaced persons. Moreover, they noted that it was a «return without justice» because those guilty of the massacre are free and the paramilitary is still present in communities.

In addition, the release last November of six paramilitaries responsible for the Acteal massacre proves to the displaced persons, and the Las Abejas group, that impunity continues. For them, the risk of new violent actions persists.

Due to the situation mentioned above, the displaced persons living in Polhó have depended on national and international humanitarian aid for survival since 1998. The European Union, through the International Committee of the Red Cross (ICRC) has provided them with basic foodstuffs until the middle of 2001. The ICRC provided every two weeks each displaced family with a sufficient amount of beans, corn, sugar, oil, salt and soap. However, the ICRC provisions have been reduced by half.

The Actual Case and the Paramilitary

The release of six paramilitaries involved in the Acteal massacre, confirms the failure of penal process overseen by the Procuraduria General de la Republica (PGR), a process implemented to prove the responsibility of the paramilitaries involved. It had previously failed in its attempt to start proceedings against members of Paz y Justicia, released a few weeks after their detention.

To think that those responsible for the Acteal massacre were released because the judge did not properly evaluate the evidence is not, in this case, very credible because at the same time that six people were acquitted, 34 were found guilty. Consequently, if the judicial process wanted to grant immunity to all, it would have released all of them. This decision will most likely be appealed.

The release of the paramilitaries is going to have a dangerous impact in the area of Chenalhó, as was the case in the northern zone, because the paramilitary come out victorious, showing their impunity. Basically, the peace promoted by the State government of Chiapas is based on money and is very weak. The community reconciliation process, supported by Governor Pablo Salazar, is based on economic reparations and supports agricultural production without re-establishing justice and punishing the paramilitary.

Punishment of paramilitary groups in Chiapas requires that the PGR conducts extensive investigations and prosecutes not only those who directly participated in the crimes, but those implementing, supporting, and financing the paramilitary. The State government must also provide evidence, not only when dealing with criminal offences in its jurisdiction, but also assisting the PGR in its investigations.

Reconciliation

As mentioned above, paramilitary groups that operate in Chiapas have not been seriously challenged — it is the responsibility of the State government. It must fight against crimes committed by Paz y Justicia, where the majority of cases can be officially persecuted. Albeit, the new government cleanses its hands, stating that the prosecution of paramilitary groups is the responsibility of the Procuraduria General de la Republica. In fact, when we address this issue, we are told that the State government is doing nothing in this matter, that it is not investigating criminal offences, it does not collaborate with federal delegates, and shows no intention of punishing Paz y Justicia.

The impunity that benefits Paz y Justicia is based within the context of reconciliation promoted by the State government. It acts in the same way as in the northern zone, giving victims money and the means for agricultural production enticing them to return to their lands, and publicizing this event as a result of a community-based reconciliation. Subsequently, impunity is granted to the paramilitary for its serious crimes.

The peace process promoted by Pablo Salazar is not a lasting one. It is based on monetary compensation, not justice. It will last as long as there is money.

In light of the above, we urge that the following recommendations be respected:

- The full and immediate observance of the San Andrés Agreements, and the continuation of the dialogue process and negotiations between the EZLN and the federal government.

- Respect for the COCOPA project on constitutional reforms.

- Ending militarization and paramilitarization (return of the army to its quarters and disarmament of paramilitary groups).

- Guaranteed access to justice and promotion of the struggle against impunity supported by all global actions, not just symbolic ones.

- Immediate amnesty for political prisoners.

- Return of displaced persons to their home communities, restitution of all their goods, and compensation for damages and injustice incurred.

- Strengthening Mexican organizations promoting human rights and guaranteed presence of international organizations, including the recognition of international observer status.

- The intervention of the International Committee of the Red Cross ensuring humanitarian aid due to the refusal of Mexican institutional organizations to do so.

- The designation of a Special Rapporteur of the Commission on Human Rights on the situation of human rights in Mexico

- The establishment by the European Union of a follow-up mechanism to support the «democratic and human rights clause» which would allow for the permanent verification of the human rights situation in Mexico in the context of the «economic association, political coordination, and cooperation agreement» signed with Mexico. This mechanism should integrate different Mexican and international social organizations promoting human rights.